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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,484	08/02/2006	Daisaku Ogasahara	Q94978	2974
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SUGHRUE MION, PLLC				
2100 PENNSYLVANIA AVENUE, N.W.				
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EXAMINER				
PHAN, MAN U				
ART UNIT		PAPER NUMBER		
2475				
NOTIFICATION DATE		DELIVERY MODE		
05/13/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/579,484

Applicant(s)

OGASAHARA ET AL.

Examiner

Man Phan

Art Unit

2475

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1.3, 4.40-42, 66-71 and 89-91 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1.40, 66-71 and 89 is/are allowed.
- 6) ☒ Claim(s) 3.4, 41, 42, 90 and 91 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Amendment and Argument

1. This communication is in response to applicant's 01/19/2010 Amendment in the application of Ogasahara et al. for the "**COMMUNICATION SYSTEM AND COMMUNICATION METHOD**" filed 08/02/2006. This application is a national stage entry of PCT/JP2004/017118 , International Filing Date: 11/11/2004, and claims foreign priority to 2003-387103 , filed 11/17/2003 in Japan. The amendment and response has been entered and made of record. Claims 2, 5-39, 43-65, 72-88 and 92-113 have been canceled per Applicant's request, and claims 1, 40, 66, 69, 71, 89 have been amended. The claims have been amended to better point out and more distinctly claim subject matter comprising the invention. Claims 1, 3, 4, 40-42, 66-71, 89-91 are pending in the application.

Claim Rejections - 35 USC # 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 1 12:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3-4, 41-42, 90-91 are rejected under 35 U.S.C. 1 12, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claims 3-4 recite the limitations "said assuming unit" in lines 1. There is no antecedent basis for this limitation in the claims.

b. Claims 41-42 recite the limitations “said assuming unit” in lines 1. There is no antecedent basis for this limitation in the claims.

c. Claims 90-91 recite the limitations “said assuming unit” in lines 1. There is no antecedent basis for this limitation in the claims.

Allowable Subject Matter

4. Claims 1, 40, 66-71, 89 are allowable as evident by applicant’s amendment.

5. Claims 3-4, 41-42, 90-91 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

6. The following is an examiner’s statement of reasons for the indication of allowable subject matter: The closest prior art of record fails to disclose or suggest a communication system comprising a first base node connected to one or more base nodes through a first network, said first base node further connected to said one or more base nodes through a second network other than said first network, said first based node includes a frame analysis unit which handles a first port connected to said first network and a second port connected to said second network as one virtual port to assume said first and second network to be one node in broadcast transfer and multicast transfer of a data frame, wherein, in normal operation of said communication system, said frame analysis unit processes transmission of said data frame from one port selected from

among said ports assumed as said virtual port, in response to a failure detection of said communication system, said frame analysis unit selects one of: a process of transmitting said data frame from one port selected from said ports assumed as said virtual port, and a process of transmitting said data frame from all of a plurality of ports selected from said ports assumed as said virtual port, and performs the selected process according to a condition where said detected failure occurs, and in a process of receiving said broadcast data frame or multicast data frame, in normal operation of said communication system, said frame analysis unit performs a process of receiving said broadcast data frame or multicast data frame, in response to failure detection of said communication system, said frame analysis unit selects one of: a process of receiving said data frame as it is, and a process of performing either reception or discarding of said received data frame based on said port which received said data frame and said base node which transmitted said data frame, and performs said selected processing according to a condition where said detected failure occurs, as specifically recited in the claims.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION THIS ACTION IS MADE FINAL**. See MPEP ' 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

9. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Phan whose telephone number is (571) 272-3149. The examiner can normally be reached on Mon - Fri from 6:00 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dang Ton, can be reached on (571) 272-3171. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about

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the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at toll free 1-866-217-9197.

Mphan

May 05, 2010

/Man Phan/

Primary Examiner, Art Unit 2475